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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,906	06/02/2000	KATY DRIEU	427.035	9289

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EXAMINER

SRIVASTAVA, KAILASH C

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 03/12/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/555,906

Applicant(s)

DRIEU, KATY

Examiner

DR. Kailash C. Srivastava

Art Unit

1651

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 February 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 17 October 2001. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 2-8 and 10-13.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

ATTACHMENT TO ADVISORY ACTION

1. The response filed 2/21/2002 (Paper Number 13) under 37 CFR 1.116 in reply to the Advisory Action dated 01/18/2002 (Paper Number 11) has been considered but is not deemed to place the application in condition for allowance because of the reasons of record on pages 2-3, item 6 of the Office Action Dated 07/17/2001 (Paper Number 8) and on pages 2-4 of the advisory action dated 1/18/2002 (Paper Number 11).

Lastly, the art rejections of record will be maintained. In response to this rejection, the applicant argues that the claimed invention would not have been obvious to an artisan of ordinary skill from the disclosure in the prior art references that the Examiner has cited.

Applicant's arguments regarding the Prior art references in the reply filed on 2/21/2002 (Paper Number 13) have been fully considered in view of the amended claim 11, but are not persuasive. The claims remain obvious for the reasons of record in advisory action dated 1/18/2002 (Paper Number 11) and for following reasons:

Remington's Pharmaceutical Sciences teaches that the symptoms of addiction are the same as those manifested upon withdrawal from addiction of drugs (See page 1 of the advisory action dated 1/18/2002, Paper Number 11).

The cited prior art references show that at the time of the invention, it was well known in the art that ginkgo extract containing ginkgolides A and B or derivatives of ginkgolide B are useful in overcoming symptoms that are also manifested by an individual rehabilitating from drug addiction. Based on the disclosure by Hsia et al., Kleijnen et al., and Park et al., that the ginkgo extract containing ginkgolides A and B, or derivatives of ginkgolide B referred in the cited references are used in pharmaceutical compositions to treat symptoms that are manifested by an individual undergoing drug addiction rehabilitation, an artisan of ordinary skill would have had a reasonable expectation that a combination of *Gingko biloba* extract with the components outland in the referred prior art would also be useful to ease withdrawal symptoms in an individual undergoing drug addiction rehabilitation. Therefore, the artisan would have been motivated to combine all these components into a pharmaceutical preparation for the intended purpose.

Thus, applicant's arguments have been considered, however, these arguments are not persuasive because a showing to overcome a *prima facie* case of obviousness must be clear and convincing (*In re Lohr et al.*, 137 USPQ 548).

2. In sum, Claims 2-8 and 10-13 fail to be patentably distinguishable over the state of the art discussed above. Therefore, the claims are properly rejected under 35 U. S. C. § 103 (a).

3. No claims are allowed.


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kailash C. Srivastava whose telephone number is (703) 605-1196. The examiner can normally be reached on Monday to Thursday, from 8:30 A.M. to 6:30 P.M. (Eastern Standard or Daylight Saving Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn, can be reached on (703) 308-4743 Monday through Thursday. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Kailash C. Srivastava, Ph.D.
Patent Examiner
Art Unit 1651
(703) 605-1196

KCS
March 7, 2002


LEON B. LANFORD, JR.
PRIMARY EXAMINER